

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHEA MICHAEL HUGHES,
Plaintiff,
v.
CLEMENTE, et al.,
Defendants

No. 2:21-CV-0360-TLN-DMC-P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's complaint. See ECF No. 1.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a “. . . short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply, concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice of the plaintiff’s claim and the grounds upon which it

1 rests. See Kimes v. Stone, 84 F.3d 1121, 1129 (9th Cir. 1996). Because Plaintiff must allege
2 with at least some degree of particularity overt acts by specific defendants which support the
3 claims, vague and conclusory allegations fail to satisfy this standard. Additionally, it is
4 impossible for the Court to conduct the screening required by law when the allegations are vague
5 and conclusory.

6 Plaintiff names the State of California as a defendant to this action. The Eleventh
7 Amendment prohibits federal courts from hearing suits brought against a state both by its own
8 citizens, as well as by citizens of other states. See Brooks v. Sulphur Springs Valley Elec. Coop.,
9 951 F.2d 1050, 1053 (9th Cir. 1991). This prohibition extends to suits against states themselves,
10 and to suits against state agencies. See Lucas v. Dep't of Corr., 66 F.3d 245, 248 (9th Cir. 1995)
11 (per curiam); Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989).

12 Because it does not appear possible that the deficiency identified herein can be
13 cured by amending the complaint, Plaintiff is not entitled to leave to amend prior to dismissal of
14 the State of California as a defendant. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir.
15 2000) (en banc).

16 Based on the foregoing, the undersigned recommends that the State of California
17 be dismissed as a defendant to this action, with prejudice.

18 These findings and recommendations are submitted to the United States District
19 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
20 after being served with these findings and recommendations, any party may file written
21 objections with the court. Responses to objections shall be filed within 14 days after service of
22 objections. Failure to file objections within the specified time may waive the right to appeal. See
23 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

24
25 Dated: August 23, 2021



26 DENNIS M. COTA
27 UNITED STATES MAGISTRATE JUDGE
28